REMARKS

Claims 20-48 have been added. Claims 1-48 are currently pending in the application.

In the Office Action, the Examiner rejects pending claims 3, 5, 7, 12, 14, and 16 under 35 U.S.C. § 112, second paragraph, as being indefinite because no range or standard for determination is taught in connection with the term "predetermined time interval". Applicant respectfully traverses this rejection.

In claims 3 and 12, pre-stored records are used in a process of identifying a prescription drug as a new therapy start and these pre-stored records are collected over a predetermined time interval. Thus, the term "predetermined time interval" serves to qualify which records are used in this identification. (See application, page 8, lines 10-18). Applicant respectfully submits that these claims are definite as one of ordinary skill in the art reading these claims in light of the specification would understand that, by not specifying any particular range or standard for determination, the term "predetermined time interval" may encompass any time interval over which it is desired to collect pre-stored records for use in this identification and that the specific interval used is a matter of design choice for an implementer or user of the invention.

In claims 5 and 14, a first prescription drug is identified as newly prescribed if the length of time between the last day a second prescription drug was taken and the first day the first prescription drug was taken exceeds a predetermined time interval. (See application, page 9, line 4 to page 10, line 4). In claims 7 and 16, a first prescription drug is identified as a replacement if the length of time between the last day another prescription drug was taken and

the first day the first prescription drug was taken does not exceed a predetermined time interval. Thus, the "predetermined time interval" in these claims serves as a measure for identifying whether a drug is newly prescribed (claims 5 and 14) or whether a drug is a replacement (claims 7 and 16). Applicant respectfully submits that claims 5, 7, 14, and 16 are definite as one of ordinary skill in the art reading these claims in light of the specification would understand that, by not specifying any particular range or standard for determination, the term "predetermined time interval" may encompass any time interval desired to be used as a measure for identifying a drug as newly prescribed (claims 5 and 14) or desired to be used for identifying a drug as a replacement (claims 7 and 16) and that the specific interval used is a matter of design choice for an implementer or user of the invention.

In the Office Action, the Examiner rejects pending claims 1-19 under 35 U.S.C. § 102(a) as anticipated by U.S. Patent No. 5,950,630 to Portwood et al. ("Portwood"). Applicant respectfully traverses this rejection.

Portwood describes a system for checking the integrity of drug prescriptions created for a patient. (Col. 1, lines 7-18). A prescriber enters prescription data for the patient into a prescriber computer, where the prescription data includes, for each drug being prescribed, information such as a Generic Product Identifier (GPI) or National Drug Code (NDC), a prescribed unit dosage, and the schedule for taking the drug. (Col. 8, line 18 to Col. 9, line 46). The prescriber computer retrieves, through a server computer, pharmaceutical data for each drug being prescribed, including information such as the drug's GPI, NDC, and recommended dosage and duration ranges for the drug as provided by pharmaceutical companies to the U.S. FDA (Col. 10,

lines 5-11; Col. 7, lines 52-67). The prescriber computer uses the retrieved pharmaceutical data to perform tests on the drug prescriptions created for the patient, including whether the prescribed dosage and duration ranges for a prescribed drug fall within the recommended dosage and duration ranges for the drug. (Col. 6, lines 55-67; Col. 10, line 5 to Col. 15, line 5).

The invention of the present application compares prescription data for a prescription drug prescribed for a patient to prescription data for prescription drugs previously prescribed for the same patient in order to identify whether the prescribed drug is a new therapy start. Specifically, independent claims 1, 10, and 19, of the present application provide for comparing a first name of a first prescription drug prescribed for a patient to a second name of a second prescription drug previously prescribed for the same patient and identifying the first prescription drug as a new therapy start if the first name and second name are not substantially identical. Furthermore, dependent claims 5 and 14 provide that if the first name and second names are substantially identical, the first prescription drug can be identified as newly prescribed if the length of time elapsed between the first day the first prescription drug is dispensed and the last day the second prescription drug is taken does not exceed a predetermined time interval.

Portwood, as described above, compares prescribed dosage amounts and durations for a prescription drug prescribed for a patient to recommended dosage amounts and durations for that prescription drug to determine whether the prescribed dosage amounts and durations fall within the recommended levels for the prescription drug. Portwood does not describe or suggest the identification of a prescription drug as a new therapy start by a comparing drug names, as provided for in independent claims 1, 10, and 19 of the present application, or by comparing the time elapsed

between the first day one drug is dispensed and the last day another drug is taken with a predetermined time interval, as provided for in claims 5 and 14. The identification of a drug prescription as a new therapy start, as taught by the invention of the present application, is advantageous over Portwood, among other reasons, because it aids users of the present invention, e.g. pharmaceutical companies, in determining the effectiveness of their marketing efforts in persuading prescribers to a prescribe this drug as a new therapy.

The Examiner asserts that the description in Portwood at column 7, lines 56-67 relates to the recitation in the claims of identifying a prescription drug as a new therapy start if a first name is not substantially identical to a second name. However, Applicant respectfully submits that this citation in Portwood does not describe or suggest the aforementioned recitation, but rather only describes the type of pharmaceutical data stored and states that this data is stored as an initial step in preparing the system for use. For at least this reason and the reasons stated above, Applicant submits that Portwood does not anticipate or obviate claims 1, 5, 10, 14, and 19 of the present application. As such, Applicant respectfully submits that these claims are patentably distinct from Portwood and allowable over the prior art.

With respect to the pending dependent claims 2-4, 9, and 11-13, and 15-18, as these claims depend from claims 1 and 10, which Applicant submits are now allowable over the prior art, Applicant submits that these dependent claims now are allowable over the prior art for at least the same reasons.

For at least the reasons stated above, pending claims 1-19 are allowable. For similar reasons, new claims 20-48 are also allowable, and allowance of all claims is respectfully solicited. To expedite prosecution of this application to allowance, the examiner is invited to call the Applicant's undersigned representative to discuss any issues relating to this application.

Respectfully submitted,

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Name

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